

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RONALD BUZZARD, JR.,

NO. C14-1663-MJP-JPD

Plaintiff,

V.

PATRICK GLEBE,

Defendant.

ORDER GRANTING PETITIONER'S
MOTION TO AMEND AND
DENYING HIS MOTION FOR AN
EXPEDITED DECISION

This matter comes before the Court upon petitioner's Motion for Expedited Decision

and Motion for an Extension of Time to Amend and Add Grounds, Dkts. 11-12, and

respondent's Motion for an Extension of Time to File the Answer. Dkt. 17. In petitioner's

motion requesting an expedited decision, petitioner asserts that his case should be given

“priority” as it is a civil case and “good cause” warrants an expedited decision by the Court

because he is alleging a federal due process violation. Dkt. 11 at 1. Petitioner also filed a

separate motion "for permission to amend his habeas [petition] to add ground(s)" because a

second claim for federal habeas relief was recently exhausted in the state courts. Dkt. 12 at

Petitioner seeks a thirty (30) day extension of time to file an amended habeas petition. *Id.*

A petition for writ of habeas corpus "may be amended or supplemented as provided in

the rules of procedure applicable to civil actions.” 28 U.S.C. § 2242. Generally, leave to

1 amend “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). Courts
2 recognize a strong policy permitting amendment. *Gabrielson v. Montgomery Ward & Co.*, 785
3 F.2d 762, 765 (9th Cir. 1986). In analyzing a motion to amend, courts should consider five
4 factors: “bad faith, undue delay, prejudice to the opposing party, futility of the amendment, and
5 whether the party has previously amended his pleadings.” *Bonin v. Calderon*, 59 F.3d 815,
6 845 (9th Cir. 1995); *Foman v. Davis*, 371 U.S. 178 (1962). Although a motion to amend may
7 be denied on just one of these grounds, prejudice often is considered the “crucial” factor. See
8 *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 185 (9th Cir.1987) (“Not all of the factors
9 merit equal weight. As this circuit and others have held, it is the consideration of prejudice to
10 the opposing party that carries the greatest weight.”); *Howey v. United States*, 481 F.2d 1187,
11 1190 (9th Cir.1973) (stating that “the crucial factor is the resulting prejudice to the opposing
12 party”); *cf. DCD Programs*, 833 F.2d at 186-87 (noting that party opposing amendment “bears
13 the burden of showing prejudice”).

14 Petitioner’s motion for a thirty-day extension of time to file an amended habeas
15 petition, Dkt. 12, is GRANTED. The Court has ordered service of petitioner’s habeas petition
16 upon respondent, Dkt. 14, but an Answer to the petition has not yet been filed. In fact,
17 respondent has requested an extension of time to file the Answer because additional time is
18 needed to “obtain and review the files from Petitioner’s proceedings in the Washington State
19 courts.” Dkt. 17; Dkt. 18 (Samson Decl.). At this early stage of the proceedings, respondent is
20 not prejudiced by petitioner filing an amended petition to add an additional ground for relief.
21 Petitioner shall file an amended petition setting forth all his grounds for federal habeas relief
22 by no later than **Friday, April 3, 2015**. In light of the Court’s ruling on petitioner’s request for
23 an extension of time, respondent’s request for a similar extension, Dkt. 17, is DENIED as
24 MOOT.

1 Petitioner's request for an expedited decision on the merits of his habeas petition is
2 unwarranted. Petitioner has not identified any exigent circumstances requiring the Court to
3 review the matter *sua sponte*. Rather, it is appropriate to wait and allow respondent to file an
4 Answer to the petition before the Court considers petitioner's claims. Accordingly, petitioner's
5 motion for an expedited decision on his habeas petition, Dkt. 11, is DENIED.

6 The Clerk is directed to send a copy of this Order to petitioner and counsel for
7 respondent.

8 DATED this 26th day of February, 2015.

9 
10 JAMES P. DONOHUE
11 United States Magistrate Judge